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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,457	09/19/2003	Michael R. Levine	LVN-09002/03	7288
25006	7590	02/23/2006	EXAMINER	
GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C PO BOX 7021 TROY, MI 48007-7021			MANOHARAN, VIRGINIA	
			ART UNIT	PAPER NUMBER
			1764	
DATE MAILED: 02/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,457

Applicant(s)

LEVINE, MICHAEL R.

Examiner

Virginia Manoharan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors, e.g., typographical, grammar, idiomatic, syntax and etc. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

The drawings are objected to because of the following reasons:

1). The reference numeral "37" has been described as valve at page 6, line 4, but is shown as tube or pipe in Fig. 1.

2). The drawing fails to comply with 37 CFR 1.84(p)(4) because reference characters "24" and "22" have been used to designate both "Torricellian vacuum area" (page 5, line 6), & "seawater column" (page 5, line 14); and " the volume" (page 5, line 16", and "volume" (page 7, line 8) respectively.

Applicant should further check that no different parts are referred to by the same number or vice versa, i.e., no different numbers are referred to by the same part.

[Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of

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any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance].

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a).The inconsistent used of terminology in the claims is improper. For example:

- 1). "the vacuum area" in claim 1 as opposed to "vacuum volume" in claim 4.
- 2). "a vacuum" in line 4 as opposed to "the vacuum area" in line 5 of claim 7. See also claim 11.

b). The claimed "the vacuum area" in claim 1, lines 4-5 and in claim 11, last line lack antecedent supports in the claims.

c). The claimed "relatively pure water" is indefinite as it could also mean as "relatively impure".

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1 -14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanchez Belmar (6,436,242) in view of Payne (4,358,250) and Katz (3, 127,330) or Lapeyre (3,980,527)

Sanchez Belmar discloses substantially the apparatus as claimed. See Fig. 1.

The apparatus of Sanchez Belmar differs from the claimed invention in that claim 1, for example, recites “a natural force powered source powering the compression” wherein the natural force comprises wind power as recited in claim 2; and wherein the natural force comprises wave power which drives a wave power motor which drives the compressor as further recited in claim 3. However, to substitute the compressor of Sanchez Belmar with a wind energized prime mover comprising a compressor, to arrive at the claimed invention, would have been obvious to one of ordinary skill in the art for the advantages taught e.g., col. 4, lines 61-68 of the Payne’s reference. Likewise, to substitute the compressor of Sanchez Belmar with the wind-driven surface waves would have been obvious to one of ordinary skill in the art so as to provide energy that is not costly economically as well as environmentally as is resulting from the used of conventional fuel supplies as taught e.g., at col. 4, lines 39- 45 of Lapeyre. In like manner Katz teaches deriving power directly from the waves associated with the surface of the sea to overcome problems associated with the used of conventional fuel source. See col. Lines 9-21.

The “whereby” clause such as “whereby the vapor in the vacuum area is compressed and cooled in the heat exchanger to produce relatively pure water”, recited in claim 1,

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does not define any device and accordingly cannot be distinguished in the prior art in the structural sense.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a). Trull discloses a wave motion motor.
- b). Huse discloses a vapor distillation apparatus with compressor means.
- c). Williamson teaches that a compressor can be driven in a variety of ways.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to V. Manoharan whose telephone number is (571) 272-1450.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on (571) 272-1444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)..



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